THE HONOURABLE DR. JUSTICE G. YETHIRAJULU

WRIT PETITION No. 8301 OF 2004

Date:13.12.2007

BETWEEN:

Kavuru Nageswara Rao

…. PETITIONER

And

1. The Government of Andhra Pradesh, Department of Revenue (Endowments) rep. by its Secretary, Secretariat, Hyderabad, and others.

…. RESPONDENTS

ORAL ORDER:

This writ petition is filed seeking to declare the order of the Regional Joint Commissioner of Endowments, in confirming the order passed by the Assistant Commissioner, as illegal and arbitrary.

It is stated that the petitioner is the cultivating tenant of the land to an extent of Acs.11.64 cents in S.Y.110/1 and 2, belonging to Sri Uma Agasteswara Swamy Temple, Penumadam Village, Poduru Mandal, West Godavri District, and has been paying rents regularly. When the fourth respondent issued notice on 25.06.2003, directing the petitioner to vacate the temple land within 30 days, he filed W.P.No.10807 of 2003 before this Court, which was disposed of directing the temple authority to offer fixed rate of lease to the existing tenant and if he is not agreeable to pay such amount, the temple authorities shall resume the same and put it to auction and even if any auction is held by the time the orders are communicated, the same shall not be confirmed till the exercise indicated above is completed. But the Assistant Commissioner through his order dated 7.07.2003 held that the petitioner is in possession of more than Acs.2.50 of land and therefore, he does not come under the purview of Section 82(2) of the Act 30 of 1987 and therefore, he is not entitled to recognize him as landless poor person. Being aggrieved by the same, the petitioner filed W.P.No.15637 of 2003 before this Court, and this Court while disposing of the writ petition directed the petitioner to approach the appellate

authority. Accordingly, the petitioner filed Appeal No.40 of 2003 before the Regional Joint Commissioner, Multi Zone-I, Endowments Department, Kakinada. The appellate authority, by its order dated 29.12.2003 disposed of the said appeal by confirming the order of the Assistant Commissioner. Being aggrieved by the same, the present writ petition has been filed by the petitioner.

I have perused the record. The appellate authority in its order categorically mentioned that the petitioner held personal property of Acs.3.55 cents in R.S.No.858/3, and Acs.3.13 cents in R.S.No.852/1 besides valuable movable and immovable properties and getting income more than the limits prescribed. Therefore, the petitioner cannot be treated as landless poor person within the purview of Section 82(2) of the Act.

When there is a categorical finding of fact by the concerned authorities regarding the extent of land possessed by the petitioner, this Court in exercise of extraordinary jurisdiction under Article 226 of the Constitution of India cannot go into the correctness of the extents mentioned by the concerned authorities. Therefore, I do not find any illegality or arbitrariness in the order passed by the Joint Commissioner, Endowments, Kakinada. In view of the same, I see no merit in the writ petition.

Accordingly, the Writ Petition is dismissed. No costs.

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(Dr. G. Yethirajulu, J.)

13th December, 2007
Js.